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Attorneys for Plaintiff DAVID TOURGEMAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DAVID TOURGEMAN, on Behalf of Himself
and All Others Similarly Situated,

Plaintiff,

vs.

COLLINS FINANCIAL SERVICES, INC.,
a Texas corporation; NELSON & KENNARD,
a California partnership; DELL FINANCIAL
SERVICES, L.P., a Delaware limited
partnership; CIT FINANCIAL USA, INC., a
Delaware corporation; and DOES 1 through 10,
inclusive,

Defendants.

CASE NO.: 08-CV-1392-JLS(NLS)

**DECLARATION OF BRETT M. WEAVER
IN SUPPORT OF PLAINTIFF'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO COMPEL FURTHER
RESPONSES TO DISCOVERY
REQUESTS AND FOR SANCTIONS**

Date: April 5, 2010
Time: 9:30 a.m.
Courtroom: 1101
Judge: Hon. Nita L. Stormes

1 I, Brett M. Weaver, declare as follows:

2 I am an attorney admitted to practice in the State of California and am counsel of record for
3 Plaintiff David Tourgeman in this action. I have personal knowledge of the facts stated below. If
4 called upon to do so, I could and would competently testify thereto.

5 1. David Tourgeman ("Tourgeman") provided testimony regarding this case at his
6 deposition on March 19, 2008. Attached to this declaration as **Exhibit "A"**, is a true and correct
7 copy of the relevant portions of Tourgeman's deposition transcript.

8 2. On April 2, 2009, Tourgeman issued discovery requests to Nelson & Kennard
9 ("Nelson") and Collins Financial ("Collins"). Attached to this declaration as **Exhibit "B"**, is a true
10 and correct copy of Plaintiff's Request For Production of Documents to Nelson, Plaintiff's Special
11 Interrogatories to Nelson, Plaintiff's Request For Production of Documents to Collins, and Plaintiff's
12 Special Interrogatories to Collins.

13 3. On May 5, 2009, Nelson and Collins both served their written responses to
14 Tourgeman's discovery requests. Attached to this declaration as **Exhibit "C"**, is a true and correct
15 copy of Nelson's Response to Plaintiff's Requests For Production, Nelson's Response to Plaintiff's
16 Special Interrogatories, Collins's Response to Plaintiff's Requests For Production, and Collins's
17 Response to Plaintiff's Special Interrogatories.

18 4. Nelson's and Collins's responses to Tourgeman's Requests For Production and
19 Special Interrogatories were both evasive and incomplete in many respects. To resolve these issues,
20 on June 24, 2009, I sent Nelson's and Collins's counsel, Tomio Narita, a letter for the purpose of
21 meeting and conferring regarding the inadequacy of his clients' responses. My letter explained, in
22 detail, the reasons why Nelson's and Collins's responses were deficient. Attached to this declaration
23 as **Exhibit "D"**, is a true and correct copy of that letter.

24 5. Mr. Narita did not provide a written response to my meet and confer letter dated June
25 24, 2009. Instead, Mr. Narita told me that Tourgeman's discovery requests were premature until the
26 Court ruled on the motions to dismiss and the not yet filed motion for summary judgment.

27 6. Having received no response from Mr. Narita to my June 24, 2009 letter, and with
28 depositions rapidly approaching, I sent Mr. Narita a letter on December 4, 2009, reiterating

1 Tourgeman's request for supplemental responses. Attached as **Exhibit "E"**, is a true and correct
2 copy of this letter.

3 7. On December 17, I received a letter from Mr. Narita regarding Nelson's and Collins's
4 discovery responses. Mr. Narita's letter provided many of the same objections stated in his clients'
5 discovery responses. Although Mr. Narita agreed to provide supplemental responses to a select few
6 discovery requests, he did not specify when those supplemental responses would be provided.
7 Attached as **Exhibit "F"**, is a true and correct copy of this letter.

8 8. On December 29, 2009 I sent Mr. Narita a 14-page letter outlining in detail the
9 deficiencies in Nelson's and Collins's continued objections to Tourgeman's discovery requests.
10 Attached as **Exhibit "G"**, is a true and correct copy of this letter.

11 9. On January 7, 2010, Mr. Narita and I engaged in a nearly two hour telephonic meet
12 and confer discussion regarding this matter. While Mr. Narita agreed to produce some additional
13 documents and provide supplemental responses to a few discovery requests, he did not specify when
14 those supplemental responses would be provided. During this conversation, Mr. Narita and I
15 discussed our respective positions regarding Nelson's and Collins's duties to provide additional
16 responses to certain discovery requests, but were largely unable to resolve our differences.

17 10. On January 8, 2010, I sent Mr. Narita a letter memorializing our telephonic meet and
18 confer discussion and reiterated our request for supplemental responses. Attached as **Exhibit "H"**,
19 is a true and correct copy of this letter.

20 11. On January 15, 2010, I received a letter from Mr. Narita regarding his clients'
21 discovery responses. Although Mr. Narita stated that supplemental responses to a few discovery
22 requests would be forthcoming, he did not specify when they could be expected. Attached as
23 **Exhibit "I"**, is a true and correct copy of this letter.

24 12. On January 26, 2010, I received a limited number of supplemental responses from
25 Defendants. Attached as **Exhibit "J"**, is a true and correct copy of Nelson's Supplemental
26 Responses to Plaintiff's Requests For Production, Nelson's Supplemental Responses to Plaintiff's
27 Special Interrogatories, Collin's Supplemental Responses to Plaintiff's Requests For Production, and
28 Collin's Supplemental Responses to Plaintiff's Special Interrogatories.

15. During our telephonic meet and confer discussion on January 7, 2010, Mr. Narita confirmed that Paragon Way is Collins's subsidiary and collects debts on Collins's behalf. Mr. Narita agreed to provide supplemental responses and documents related to Paragon Way.

17. On December 9, 2009, I sent Mr. Narita a follow-up email, referencing my December 4, 2009 letter and asking for supplemental responses. On December 17, 2009, I sent Mr. Narita a second follow-up email regarding discovery.

19. I offered to sign a protective order for all requests that sought financial information or sensitive contractual agreements. Mr. Narita ignored my offer.

Executed this 5th day of March, 2010, at San Diego, California.

3

DECLARATION OF BRETT M. WEAVER IN SUPPORT OF PLAINTIFF'S
MOTION TO COMPEL FURTHER RESPONSES TO DISCOVERY AND FOR SANCTIONS